

APPROVED 6-22-16
TOWN OF NORTH HAVEN, CONNECTICUT
MINUTES
Inland Wetlands Commission

Minutes of the Inland Wetlands Commission meeting held on Wednesday, May 25, 2016 at the Mildred A. Wakeley Community and Recreation Center, 7 Linsley Street, in Room #2 at 7:00 p.m.

MEMBERS PRESENT:

Mark R. Trojanowski, Chairman
Peter Tenedine, Vice Chairman
Steven J. Nugent, Secretary
Pat Libero
Joseph L. Tenedine
Frank H. Bumsted, Alternate
Pamela Sletten, Alternate

ABSENT MEMBERS:

Cheryl A. Juniewicz
Anna Garsten
Steven Miller, Alternate

TOWN STAFF:

Alan Fredricksen, Land Use Administrator
Jonathan Bodwell, Town Engineer
Laura Magaraci, Zoning Enforcement Officer
Jennifer Coppola, Town Counsel
Genevieve Bertolini, Stenographer
Sandra Lion, Clerk

AGENDA:

Mr. Trojanowski, Chairman, called the meeting of the Inland Wetlands Commission to order at 7:07 PM and introduced the Commission and town staff. Then, Mr. Trojanowski asked if there were any further matters to come before the Commission. Mr. Fredricksen stated that there were none.

PUBLIC HEARING FOLLOWED BY DELIBERATION:

Mr. Nugent read the call for the Public Hearing and then he recused himself.

To provide the property owner of 480 Valley Service Road, North Haven ("Property") with the opportunity to be heard by the Inland Wetlands Commission and to show cause why the Cease and Desist Order issued by the Inland Wetlands Enforcement Officer, dated May 17, 2016, should not remain in effect.

Laura Magaraci, Zoning and Wetlands Enforcement Officer, stated that in 2014 a Cease and Desist Order was issued and upheld, and remediation that was supposed to begin by September 15, 2015 never started. She discussed prior and current violations with the Commission and explained that regulated activities have been conducted on the site such as grading and the removal of trees without proper approvals.

Then, Ms. Magaraci submitted an as-built from Steven's and Associates as Exhibit A and a site plan from HRP as Exhibit B. Also, photographs of the site were submitted as Exhibits C1 through C21. Ms. Magaraci stated that she confronted Mr. Neubig several times for working on the site while a Cease and Desist Order was still active but he continues to work. Mr. Bodwell stated that on April 20, 2016 Mr. Neubig had stated to the judge that he would not be working on the site and was found working on the site a week later.

Attorney Tom Luby of Luby & Olsen Law Firm, representing Mr. Neubig, asked questions and Ms. Magaraci and Mr. Fredricksen responded. Then, Mr. Lord, Soil Scientist, stated that the last time he monitored the site was during the construction of the access road and has not been on the site for the past six months. Mr. Fredricksen stated that Mr. Neubig has been removing material from the site and conducting excavation activities under a Cease and Desist Order. Ms. Magaraci stated that there has been no attempt at remediation or protection of the wetlands by Mr. Neubig. Then, Ms. Magaraci submitted seven (7) Inspection Reports as Exhibit D.

Attorney Luby further addressed the Commission regarding current violations. Mr. Bodwell explained that due to Mr. Neubig's recent activities, a large tree fell from the wetlands buffer area into the wetlands impacting the vegetation in that area. Attorney Jennifer Coppola stated that as of December 3, 2014 when a Cease & Desist was ordered, Mr. Neubig was not allowed to be working on the site and he continues to work under the Cease & Desist Order. Also, Mr. Neubig never obtained the proper approvals required for this type of work. Attorney Luby stated that Mr. Neubig is ready to work towards a solution to resolve this matter and feels that there is only a minor impact to the wetlands. Mr. Fredricksen stated that Mr. Neubig removed soil from a wetland buffer area without a permit and that this activity created an egregious impact on the wetlands. Also, the breaches created by Mr. Neubig caused severe soil erosion that allowed for large plumes to also impact the wetlands. Mr. Fredricksen also stated that since 2011 Mr. Neubig has not fulfilled his commitment to remediate the site.

Mr. Lord explained that at the time the remediation plan was presented the impacts to the wetlands were evidenced by the sighting of plumes of sedimentation traveling downstream. He also stated that new wetlands had already been created due to excavation activities. Ms. Magaraci explained that new activities such as; the removal of a berm in the municipal solid waste area, removal of material, and no honoring of the 50' wetland buffer area, resulted in the issuance of another Cease & Desist Order on May 17, 2016. Ms. Magaraci submitted a memorandum dated May 25, 2016 as Exhibit E that offered remediation recommendations. The Commission asked questions and then Attorney Luby addressed the remediation recommendations offered by Ms. Magaraci. Then, Ms. Magaraci asked the Commission to uphold the Cease & Desist Order due to the continued egregious impact to the wetlands.

Mr. Trojanowski asked for public comment, there being no further questions the Public Hearing was closed.

DELIBERATIONS:

To provide the property owner of 480 Valley Service Road, North Haven ("Property") with the opportunity to be heard by the Inland Wetlands Commission and to show cause why the Cease and Desist Order issued by the Inland Wetlands Enforcement Officer, dated May 17, 2016, should not remain in effect.

Mr. Bumsted moved to affirm the Cease and Desist Order with all comments offered by the Zoning and Inland Wetlands Officer in the her memorandum dated May 17, 2016; Mr. P. Tenedine seconded the motion. The Commission voted as follows:

Trojanowski – aye P. Tenedine - aye Libero – aye J. Tenedine –aye Bumsted – aye Sletten - aye

The Commission based their decision on the statements of town staff, and on the drawings and photographs provided as evidence. Their expressed desire was to avoid further impact to the wetlands. A remediation plan must be submitted to the Commission before the Cease and Desist Order can be lifted.

EXECUTIVE SESSION:

1. Discuss the status of the pending litigation and proposed settlement in Laura Magaraci, et al. v. Robert P. Neubig, et al., and possible action relating to same.
2. Consider whether to convene in executive session to discuss the status of pending litigation and proposed settlement in Laura Magaraci, et al. v. Robert P. Neubig, et al.

Mr. Bumsted moved to enter Executive Session at 9:18 PM. The Commission invited Jennifer Coppola, Town Counsel, Alan Fredricksen, Land Use Administrator, Jonathan Bodwell, Town Engineer, and Laura Magaraci, Zoning and Inland Wetlands Enforcement Officer, into Executive Session; Mr. P. Tenedine seconded the motion. All were in favor.

Mr. Libero moved to exit Executive Session at 9:57 PM; Mr. J. Tenedine seconded the motion. All were in favor.

Mr. P. Tenedine moved to authorize Attorney Jennifer Coppola, Town Counsel, to pursue a settlement agreement to the pending litigation in Laura Magaraci, et al. v. Robert P. Neubig, et al.; Mr. Libero seconded the motion. The Commission voted as follows:

Trojanowski – aye P. Tenedine - aye Libero – aye J. Tenedine –aye Bumsted – aye Sletten - aye

INFORMAL: None

OTHER:

-Town Plan of Conservation and Development

Mr. Fredricksen addressed the Commission regarding the process of updating the Town Plan of Conservation and Development.

-De minimus Regulation

Mr. Trojanowski and Mr. Fredricksen discussed modifying the regulations to include De minimus applications. The Commission asked to continue this item to next month.

Mr. Trojanowski created a subcommittee to review possible regulation changes that could potentially further protect Inland Wetlands and Watercourses in North Haven. He appointed Steve Nugent and Peter Tenedine to this subcommittee.

- 77 Sackett Point Road

Mr. David Lord, Soil Scientist, updated the Commission regarding the Inland Wetlands remediation and modification plan for 77 Sackett Point Road. The Commission asked questions and Mr. Lord and Mr. Bodwell responded. Mr. Lord stated that the telephone poles are forthcoming.

Mr. Bumsted moved to approve the modified plan; Mr. Libero seconded the motion. The Commission voted as follows:

Trojanowski – aye P. Tenedine - aye Nugent – aye Libero – aye J. Tenedine –aye
Bumsted – aye Sletten - aye

ENFORCEMENT ACTION: None

EXTENSIONS: None

PERMITTED USES AS OF RIGHT: None

BOND RELEASES & REDUCTIONS: None

CORRESPONDENCE: - The Habitat, Spring 2016
- Quinnipiac University Notice
- DEEP – Workshop Notice

MINUTES:

- March 23, 2016

Mr. Bumsted moved to approve the March 23, 2016 meeting minutes; Mr. Libero seconded the motion. The Commission voted as follows:

P. Tenedine – aye Nugent - aye Libero – aye Bumsted – aye Sletten – aye

ADJOURN:

Mr. Libero moved to adjourn the meeting; Ms. Sletten seconded the motion. The meeting was adjourned at 10:18 PM.